



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 12 2019

OFFICE OF
CONGRESSIONAL AND
INTERGOVERNMENTAL
RELATIONS

The Honorable Betty McCollum
Chair
Subcommittee on Interior, Environment,
and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Chair McCollum:

On behalf of the U.S. Environmental Protection Agency, I am responding to your February 25, 2019 and April 9, 2019 letters regarding the EPA's review of a draft National Pollution Discharge Elimination System (NPDES) permit issued by the Minnesota Pollution Control Agency for PolyMet Mining Inc.'s Northmet mining facility in St. Louis County, Minnesota.

It has long been the practice for EPA staff to have verbal conversations with their regulatory partners, tribal or state, as those partners work through complex permitting decisions. EPA Region 5 Administrator Cathy Stepp has specifically encouraged EPA staff to work more collaboratively and speak "face-to-face" with state officials. This type of communication is essential to promoting strong relationships between the Agency and state and tribal entities.

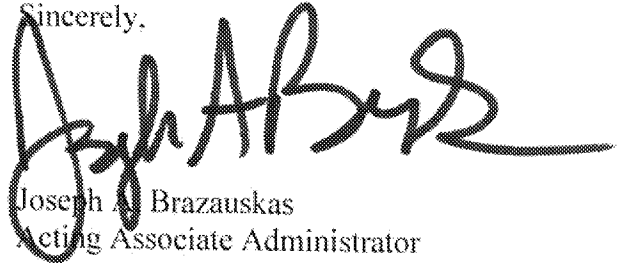
Additionally, the EPA is committed to improving communication and building stronger partnerships between the Agency and federally recognized tribes. Consistent with the Agency's 2019-2020 priorities, Region 5 is dedicated to building communication approaches to better connect tribes, EPA, and other stakeholders to foster a collaborative working relationship. As part of this effort and ahead of a meeting planned next week with representatives from the Fond du Lac Indian Tribe, Region 5 has decided to release an Agency document regarding Minnesota's NPDES permit for the Northmet mining facility that has been requested by the Tribe and by the Subcommittee. Region 5 believes that providing this document to the Fond du Lac Tribe will advance these goals.

To be clear, upon receipt of the Subcommittee's request] for this document, the EPA determined that the document is deliberative and should be withheld from release under Exemption 5 of the FOIA, the deliberative process privilege. The Agency maintains that this document is deliberative. However, because Region 5 has made the decision to provide the document voluntarily to the Fond du Lac Indian Tribe, that privilege has been waived and the document

can no longer be properly withheld under FOIA. Through this accommodation, the EPA does not waive any confidentiality interests in this document or similar documents in other circumstances.

The EPA recognizes the importance of the Subcommittee's need to obtain information necessary to perform its legitimate oversight functions and is committed to continuing to work with your staff on how best to accommodate the Subcommittee's interests. If you have further questions, you may contact me, or your staff may contact Kristien Knapp in the EPA's Office of Congressional and Intergovernmental Relations at Knapp.Kristien@epa.gov or (202) 564-3277.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph A. Brazauskas". The signature is stylized with a large initial "J" and a long, sweeping horizontal line at the end.

Joseph A. Brazauskas
Acting Associate Administrator

cc: The Honorable David Joyce, Ranking Member